



TOWN OF HOPEDALE
ZONING BOARD OF APPEALS
TOWN HALL
78 HOPEDALE STREET
HOPEDALE, MA 01747

Christopher P. Hodgens, Chairman
Nicholas A. Alexander, Member
Sandra E. Biagetti, Member
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Scott M. Savage, Member
Mary T. Arcudi, Alternate

Special Permit Checklist

1. Burden of Proof

No applicant has "an absolute right to a special permit." MacGibbon v. Board of Appeals of Duxbury, 356 Mass. 635, 638-39 (1970). The applicant bears the burden proving a special permit should be granted. Fish v. Accidental Auto Body, Inc., 95 Mass. App. Ct. 355, 362 (2019).

2. Discretion of Zoning Board of Appeals

The decision to grant or deny "special permits is within the discretion" of the Zoning Board of Appeals. ACW Realty Management, Inc. v. Planning Board of Westfield, 40 Mass. App. Ct. 242, 246 (1996). Even if a "special permit could lawfully be granted by the board because the applicant's evidence satisfied the statutory and regulatory criteria, the board retains discretionary authority to deny the permit." Davis v. Zoning Board of Chatham, 52 Mass. App. Ct. 349, 356 (2001).

3. Harmony with Zoning By-Laws

The proposed use must be "in harmony with the general purpose and intent of the by-laws." (G.L. c. 40A, § 9).

4. Compliance with All Zoning By-Laws

All requirements of the Hopedale Zoning By-Laws must be met. (Hopedale Zoning By-Laws § 10.6(d)).

5. Record Proof

Any proof required for obtaining a special permit must be established by information submitted at a public hearing. (Hopedale Zoning By-Laws § 10.6(d)).

6. Balancing of Detriments and Benefits

"The use will not have detrimental effects which outweigh its benefits to the neighborhood, Town or zoning district in which it is located." (Hopedale Zoning By-Laws § 10.6(d)(1)).

7. Master Plan

"The use is consistent, insofar as practicable, with the Town's Master Plan officially adopted by the Planning Board." (Hopedale Zoning By-Laws § 10.6(d)(2)).

8. Public Health and Safety

"The use will not materially endanger or be hazardous to the public health and safety." (Hopedale Zoning By-Laws § 10.6(d)(3)).

9. Parking

"Sufficient off-street parking exists or will be provided to serve the use." (Hopedale Zoning By-Laws § 10.6(d)(4)).

10. Adequacy of Water, Sewer, Septic, and Utilities

"The use can be adequately served by municipal water and sewer systems and other necessary utilities, or the [ZBA] is satisfied that the proposed alternatives will comply with all applicable regulations; proposed septic systems shall comply with Title 5 of the State Environmental Code or more stringent regulations adopted by the Board of Health." (Hopedale Zoning By-Laws § 10.6(d)(5)).

11. Surface Water Runoff

"The use will not result in a substantial increase of volume or rate of surface water runoff to neighboring properties and streets." (Hopedale Zoning By-Laws § 10.6(d)(6)).

12. Protection of Water Supply and Environment

"The use will not result in contamination of the ground water supply, a well, stream, pond, watercourse or wetland." (Hopedale Zoning By-Laws § 10.6(d)(7)).

13. Pedestrian Safety and Traffic

"The use will not create undue traffic congestion or unduly impair pedestrian safety." (Hopedale Zoning By-Laws § 10.6(d)(8)).

14. Conditions

If inclined to grant a special permit, the Zoning Board of Appeals may impose "conditions, safeguards and limitations on time or use." (G.L. c. 40A, § 9). These conditions may consider "protection of the neighborhood, the Town, and the natural environment" and may also include, but are not limited to, setbacks greater than the minimum required under the by-laws, screening and buffering from adjacent property, limitations on the size, method and time of operation, regulation of the locations of driveways or other traffic features, off-street parking and loading, and bond posting to assure compliance. (Hopedale Zoning By-Laws § 10.6(e)).

15. Additional Conditions Following Site Plan Review

In cases where site plan review is also required, the "Planning Board shall review and take action on the site plan and shall submit a report with recommendations to the [Zoning] Board of Appeals." The Zoning Board of Appeals "shall incorporate the Planning Board's recommendations and conditions in its special permit decision, or shall state in the decision the reasons why such recommendations or conditions were not followed." (Hopedale Zoning By-Laws § 18.4).